

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-54 are pending in the present application. Claims 1-3, 24-27, 41, and 48 have been amended. Claims 49-54 are new. Claims 1-3, 25-27, and 49-54 are independent claims. The Examiner is respectfully requested to reconsider the outstanding rejections in view of the Amendments and the following Remarks.

#### ***Allowable Subject Matter***

It is gratefully acknowledged that the Examiner considers the subject matter of claims 6, 11, 12, 14, 21, 30, 35, 36, 47, and 48 as being allowable if rewritten in independent form.

#### ***Claim for Priority***

It is gratefully acknowledged that the Examiner has recognized Applicants' claim for foreign priority. In view of the fact that Applicants' claim for foreign priority has been perfected, no additional action is required from Applicants at this time.

#### ***Drawings***

It is gratefully acknowledged that the Examiner has accepted the Formal Drawings filed on February 22, 2002. Thus, no additional action is required from Applicants at this time.

#### ***Acknowledgment of Information Disclosure Statement***

The Examiner has acknowledged the Information Disclosure Statement filed on February 22, 2002. An initialed copy of the PTO-1449 has been received from the Examiner. No further action is necessary at this time.

### ***Specification and Abstract***

The Examiner objects to the Specification because the previous amendments to the specification are difficult to follow. Applicants have attached hereto a Substitute Specification incorporating these changes. Clean and annotated copies of the Substitute Specification are provided. It is respectfully submitted that no new matter is introduced by the Substitute Specification. Thus, withdrawal of this objection is respectfully requested.

The Examiner objects to the abstract because it was not submitted on a separate page. Also, the Examiner objects to the abstract for containing reference numbers. Applicants have amended the abstract to remove the reference numbers. The amended abstract is attached hereto on a separate page. Thus, withdrawal of this objection is respectfully requested.

### ***Claim Objections***

The Examiner objects to claims 24, 41, and 48 because a particular limitation is unclear. Applicants respectfully submit that these claims have been amended to clarify the particular limitation discussed by the Examiner. In view of these amendments, withdrawal of this objection is respectfully requested.

The Examiner also objects to the previous amendments to the claims because they did not present a listing of all the claims together with the amended claims appropriately marked as "Amended." Applicants respectfully submit that the Listing of Claims above includes all of the pending claims, with the claims appropriately marked as "Original," "Currently Amended," "Previously Presented," or "New." Thus, Applicants respectfully submit that the claim amendments conform to current USPTO rules.

***Rejection Under 35 U.S.C. § 102***

Claims 1-5, 7-10, 13, 15-20, 25-29, 31-34, 37, 39-40, 42-44, and 46 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,587,985 to Fukushima et al. (hereafter “Fukushima”). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

**Synopsis of Fukushima**

Fukushima discloses a system in which a distribution server adds a sequence number and priority information to each packet to be transmitted therefrom. In Fukushima, the relay server (Fig. 7) stores those packets having priorities equal to or higher than a predetermined value in a retransmission buffer 103. See col. 16, lines 25-32. In Fukushima’s data receiving apparatus 201 (Fig. 2), the sequence numbers of error packets are detected and sent to a retransmission decision unit 16, which decides whether or not to request retransmission of each error packet based the packet’s priority. See col. 16, lines 60 – col. 17, line 9. To determine the priority of a particular packet, Fukushima teaches that the priority (and sequence number) of the particular packet may be embedded in a subsequent packet, which will be transmitted after the particular packet. See col. 18, lines 30-48.

**Claims 1, 3, 25, and 27**

Initially, Applicants point out the following section of MPEP § 2131:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. Of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claims.” *Richardson v. Suzuki Motor Co.*, 868 F2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

It is respectfully submitted that Fukushima does not set forth each and every element as defined in claims 1, 3, 25, and 27. Thus, the Examiner's rejection based on 35 U.S.C. § 102 has been obviated.

As amended, independent claims 1 and 3 recite that the transmission apparatus compares sequence numbers of packets stored in the retransmission buffer to a latest sequence number received provided to the request application unit of the reception apparatus, and deletes packets from the retransmission buffer based on the comparison. Independent claims 25 and 27 are method claims amended to recite similar features. Applicants respectfully submit that Fukushima fails to disclose such features.

In the Office Action (page 3), it is clear that the Examiner relies on Fukushima's relay server in Fig. 7 for the claimed transmission apparatus. However, Applicants respectfully submit that there is no teaching or suggestion in Fukushima that the relay server is notified of the latest sequence number provided to a request application unit associated with the reception apparatus. Thus, Fukushima's relay server neither compares the latest sequence number to the sequence numbers of packets in the retransmission buffer nor deletes packets from the retransmission buffer based on such a comparison, as claimed.

Thus, Applicants respectfully submit that Fukushima fails to disclose each and every feature in independent claims 1, 3, 25, and 27.

#### **Claims 2 and 26**

As amended, independent claim 2 recites that the reception apparatus includes a latest sequence number, which is the sequence number of the packet most recently received and provided to the request application unit, in the retransmission-request packet sent to the transmission apparatus. Independent claim 26 is a method claim amended to recite similar features.

As discussed above, there is no teaching or suggestion in Fukushima that the relay server, relied upon by the Examiner for the claimed transmission apparatus, receives or is notified of a latest sequence number provided to a request application unit of Fukushima's reception apparatus. Accordingly, Fukushima fails to teach or suggest each and every feature in independent claims 2 and 26.

### **Withdrawal of Rejection Requested**

At least for the reasons set forth above, Applicants respectfully submit that independent claims 1-3 and 25-27 are allowable. Accordingly, Applicants submit that claims 4, 5, 7-10, 13, 15-20, 28, 29, 31-34, 37, 39, 40, 42-44, and 46 are allowable at least by virtue of their dependency on claims 1-3 and 25-27. Accordingly, reconsideration and withdrawal of the rejections is respectfully requested.

### ***New Claims***

It is respectfully submitted that new independent claims 49-54 recite a combination of elements, which is neither taught nor suggested by the cited patents.

### ***Conclusion***

Since the remaining patent cited by the Examiner has not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider the outstanding rejections and issue a Notice of Allowance in the present application.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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Attachment: Amended Abstract